

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ABBY RIOS,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

Case No. 2:11-CV-01592-KJD-CWH

ORDER

Presently before the Court is Plaintiff's Motion in Limine to Exclude Economic Damages, Evidence and Testimony (#147). Defendant filed a response (#148) to which Plaintiff replied (#151). Also before the Court is Defendant's Motion to Strike (#152) Plaintiff's Reply.

Plaintiff has withdrawn her economic damages claims related to her lost earnings or lost earning capacity. She now moves to exclude "all reports, testimony and any other evidence that may be related to the economic claims, education, employment or any other economic basis" asserting that they are no longer relevant to any of the claim for damages remaining in the case. Generally, Defendant does not oppose Plaintiff's motion but seeks clarification regarding the scope of limitation.

Therefore, Plaintiff's motion is granted, but only to the extent that evidence not relevant to other claims will be excluded. For example, Plaintiff seeks an exception for testimony regarding

1 Plaintiff's ability to work or not work for the limited purpose of showing pain. Similarly, Defendant
2 seeks an exclusion for evidence regarding Plaintiff's ability to work and perform physical activities,
3 including Plaintiff's own admissions and statements. Counsel for either party should not attempt to
4 submit testimony or evidence related solely to the withdrawn economic damages claim. Testimony or
5 evidence that contains excluded economic damages material, but touches on other relevant areas
6 should be submitted to the Court for ruling on admissibility before being presented before the jury.
7 Attempts to circumvent the ruling may result in sanctions for counsel.

8 Further, the Court denies the motion to strike. While Defendant is correct that the local rules
9 do not provide for a reply in support of a motion in limine, the Court has disregarded any new issues
10 or arguments raised in the motion. Therefore, the Court will deny the motion to strike since
11 Defendant has suffered no prejudice from the reply. Finally, the Court will only consider the issues
12 of attorneys fees and costs in a motion properly filed after judgment has been entered in this action.

13 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion in Limine to Exclude
14 Economic Damages, Evidence and Testimony (#147) is **GRANTED in part and DENIED in part**;

15 IT IS FURTHER ORDERED that Defendant's Motion to Strike (#152) is **DENIED**.

16 DATED this 4th day of September 2015.

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20 Kent J. Dawson
21 United States District Judge
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